



Lamoine Board of Appeals

606 Douglas Hwy
Lamoine, ME 04605
(207) - 667-2242
town@lamoine-me.gov

APPEAL or VARIANCE APPLICATION

Applicant's Name: Alan Moldauer Tax Map = 16 Lot = 48

Property owner's name (if different) - True / Acadia View Condo

Mailing Address

15 Brown Lane
Lamoine, Maine

Physical Address (if different)

Telephone (H) _____

301-526-2695
(C) 301-526-2695 (W) _____

Email Address: _____

Type of Appeal: (check one)

☒ Administrative*

☐ Variance Request

*If Administrative, what decision making authority is being appealed?

☒ Code Enforcement Officer/LPI

☐ Planning Board

☐ Other _____

Applicable Ordinance (check all that apply)

☐ Building & Land Use

☐ Shoreland Zoning Ordinance

☐ Gravel Ordinance

☐ Site Plan Review Ordinance

☐ Other _____

For Administrative Appeals:

This application is for a decision or lack of decision by the above party because the applicant believes:

☐ An error was made in the denial of a permit

☐ Denial of a permit was based on a misinterpretation of an ordinance

☐ There is a failure to approve or deny a permit within a reasonable period of time

☒ Other (please state reason)

See attached memorandum.

(continued on other side)

Lamoine Appeal or Variance Application

For Variance Requests:

Please describe the nature of the variance you are requesting:

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For a variance to be granted, four criteria must be met. Please explain how your situation meets each of the following criteria: (you may attach additional pages)

- The land in question cannot yield a reasonable return unless the variance is granted.

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- The need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood.

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- The granting of a variance will not alter the essential character of the locality.

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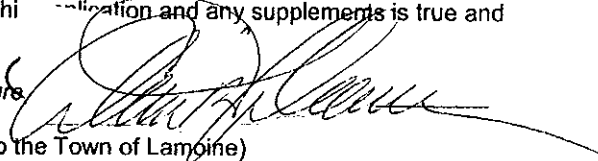
- The hardship is not the result of action taken by the appellant or a prior owner.

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I certify the information contained in this application and any supplements is true and correct.

Date 12-5-19

Signature



(Application Fee is \$50.00, payable to the Town of Lamoine)

For town staff/Appeals Board Use Only – Paid by: <input type="checkbox"/> Cash <input type="checkbox"/> Check <input type="checkbox"/> Credit Card			
Dated Rec'd By:		Date Sent to Appeals Board By:	
Initial Hearing Date		Date of abutter notification By:	
Public Hearing Notices mailed by:		Newspaper Ad Date(s) By:	
<input type="checkbox"/> Appeal Approved (Date)		<input type="checkbox"/> Appeal Denied (Date)	

Attached Memorandum

**TOWN OF LAMOINE
APPEAL TO BOARD OF APPEALS
OF CODE ENFORCEMENT OFFICER RE-CONSIDERATION DETERMINATION**

Name of Appellant: Alan Moldawer
Mailing Address: 15 Brown Lane, Lamoine, Maine 04605
City or Town: Lamoine, Maine
Telephone: 301-526-2695
Property Owner: Kathryn True and Acadia View Condominium

This is an administrative appeal of a re-determination made by the Town's Code Enforcement Officer, dated November 30, 2019 (and received by Appellant December 4, 2019—copy attached), to again deny the complaint of the Appellant filed in Moldawer v. CEO that the True house on Lot 48 in the Marlboro community of Lamoine, violates the Building Height limitation in the Town's Building and Land Use Ordinance (BLUO) and her re-determination of no violation of that height limitation.

The CEO has herself violated the law by her baseless and deliberate disregard of the decision of the Board of Appeals, rendered October 29, 2019, which reversed her previous determination of no-violation, and by her disregard of the Board's finding she misinterpreted the Building Height Limit in the Town BLUO and misapplied it to the measurement of the True house. Her disregard of the Board of Appeals is an unlawful attempt to nullify its decision. Her flawed "re-consideration" that the True house does not violate the height limitation in the BLUO is unsupported by any evidence not already considered by the Board and by any further action taken by her to comply with the BLUO or Board's decision. It reflects an obvious contempt for the clear legal advice given by the legal counsel retained by the Board of Appeals in Moldawer v. CEO and for the decision of the Board, reached in that matter after long hours and sober deliberations over a period of several months.

The CEO has publicly stated that although she “understood the intent of the Board of Appeals” in finding she misinterpreted the BLUO and incorrectly measured the height of the house, she disagreed with the Board’s decision, and she intended not to adhere to it in any reconsideration of the True height determination. Her November 30 “Notice of Reconsideration” reflects stated her intention. The CEO has decided she is above the law and does not have to abide by the Board of Appeals decision.

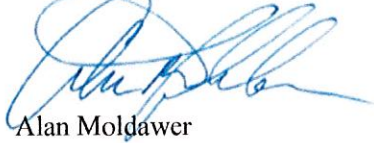
The CEO compounds her error by attempting to introduce new allegations of fact that are baseless and clearly erroneous and to argue that the Town’s height limitation is governed by the Maine Uniform Building & Energy Code (MUBEC), not the BLUO. She further incorrectly recites the height standard in the MUBEC.

In summation, in making her re-consideration of her prior determination of no violation, the Code Enforcement Officer has erroneously disregarded the decision of the Board of Appeals, has misinterpreted the Building Height limit in the Town BLUO, has failed to properly measure the height of the True house, and has erroneously found no violation of the True house (which exceeds 35 feet above average original ground).

The Board of Appeals should again reverse the CEO’s re-determination of no violation and this time, because the CEO has shown utter contempt for the Board of Appeals prior decision, direct the property owner, Kathryn True, to provide the Town a height determination made by a licensed, professional land surveyor, based upon a proper interpretation of the BLUO building height limitation, or such other assurance of compliance that the Board of Appeals determines appropriate. In the alternative, the Board of Appeals should determine that the CEO has deliberately disregarded its October 29 decision and request the Board of Selectmen to designate a replacement Code Enforcement Officer who will respect its prior decision and properly interpret and apply the Town’s BLUO in addressing the Appellant’s complaint.

Included with this written appeal is the payment of \$50.00.

Respectfully submitted,



Alan Moldawer

15 Brown Lane

Lamoine, Maine 04605